

REMARKS

Attached hereto are an executed Power of Attorney and a Statement Under 37 CFR 3.73(b). These documents serve to appoint the undersigned practitioner and all other practitioners associated with Customer Number 23294 to prosecute the subject application.

The changes to the claims are being made to delete specific recitation of “capnometer” from the various dependent claims, thereby rendering moot the objection to the drawings set forth in numbered section 1 of the Office Action. It should be noted, however, that a capnometer, which is a well known device for measuring carbon dioxide content of respiratory gas (EtCO₂) is an example of one device that is clearly covered by generic claim 11, as well as dependent claims 12-27. New dependent claims 23-27 recite the same limitations as dependent claims 18-22, respectfully, but are directly or indirectly dependent on claim 17. These claims are thus somewhat narrower in scope than claims 18-22.

The specification has been amended as required in numbered section 2 of the Office Action to reference the various reissue applications that have been filed for US Patent 6,327,497.

Regarding the obviousness type double patenting rejection of claims 11-22 over US Patent Re. 38,533, attached is a Terminal Disclaimer executed by the undersigned attorney which obviates the rejection.

In view of the foregoing, Applicant respectfully submits that all of the claims are patentable and allowable and that the application is now in condition for allowance. Accordingly, favorable reconsideration is respectfully requested.

Respectfully submitted,

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